



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0887

Introduced 2/2/2005, by Rep. John J. Millner

SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-2-1.2 new
625 ILCS 5/11-208.5 new
625 ILCS 5/16-102

from Ch. 95 1/2, par. 16-102

Amends the Illinois Municipal Code and the Illinois Vehicle Code. Provides that a unit of local government may not enact or enforce any ordinance or rule the violation of which would constitute a felony under the Vehicle Code provision prohibiting driving under the influence of alcohol, drugs, or intoxicating compounds. Provides that a municipal attorney may not prosecute, and a State's Attorney may not allow a municipal attorney to prosecute, any ordinance violation that would constitute a felony under the DUI provision of the Vehicle Code. Provides that a municipal attorney must notify the State's Attorney if a driver's alleged conduct would constitute a felony under the DUI provision.

LRB094 05942 DRH 35997 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning driving offenses.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by adding
5 Section 1-2-1.2 as follows:

6 (65 ILCS 5/1-2-1.2 new)

7 Sec. 1-2-1.2. Felony DUI prosecutions prohibited.

8 (a) A unit of local government, including a home rule unit,
9 may not enforce any ordinance that prohibits driving under the
10 influence of alcohol, other drug or drugs, intoxicating
11 compound or compounds, or any combination thereof if, based on
12 the alleged facts of the case or the defendant's driving
13 history or record, the offense charged would constitute a
14 felony under Section 11-501 of the Illinois Vehicle Code.

15 (b) A municipal attorney must (i) review the driving record
16 of any defendant accused of violating any ordinance that
17 prohibits driving under the influence of alcohol, other drug or
18 drugs, intoxicating compound or compounds, or any combination
19 thereof and (ii) if the offense charged would constitute a
20 felony under Section 11-501 of the Illinois Vehicle Code,
21 notify the State's Attorney of the county of the felony
22 charges.

23 (c) This Section is a denial and limitation of home rule
24 powers and functions under subsection (g) of Section 6 of
25 Article VII of the Illinois Constitution.

26 Section 10. The Illinois Vehicle Code is amended by adding
27 Section 11-208.5 and changing Section 16-102 as follows:

28 (625 ILCS 5/11-208.5 new)

29 Sec. 11-208.5. Prosecution of felony DUI by local
30 authorities prohibited.

1 (a) The powers of a local authority to enact or enforce any
2 ordinance or rule with respect to the streets or highways under
3 its jurisdiction relating to driving under the influence of
4 alcohol, other drug or drugs, intoxicating compound or
5 compounds, or any combination thereof is limited to the
6 enactment and enforcement of ordinances or rules the violation
7 of which would constitute a misdemeanor under Section 11-501 of
8 the Illinois Vehicle Code.

9 (b) A local authority may not enact or enforce any
10 ordinance or rule with respect to streets and highways under
11 its jurisdiction if a violation of that ordinance or rule would
12 constitute a felony under Section 11-501 of the Illinois
13 Vehicle Code.

14 (c) A municipal attorney who is aware that, based on a
15 driver's history, the driver is subject to prosecution for a
16 felony under Section 11-501 of the Illinois Vehicle Code, must
17 notify the State's Attorney of that county of the driver's
18 conduct and may not prosecute the driver on behalf of the
19 municipality.

20 (625 ILCS 5/16-102) (from Ch. 95 1/2, par. 16-102)

21 Sec. 16-102. Arrests - Investigations - Prosecutions.

22 (a) The State Police shall patrol the public highways and
23 make arrests for violation of the provisions of this Act.

24 (b) The Secretary of State, through the investigators
25 provided for in this Act shall investigate and report
26 violations of the provisions of this Act in relation to the
27 equipment and operation of vehicles as provided for in Section
28 2-115 and for such purposes these investigators have and may
29 exercise throughout the State all of the powers of police
30 officers.

31 (c) The State's Attorney of the county in which the
32 violation occurs shall prosecute all violations except when the
33 violation occurs within the corporate limits of a municipality,
34 the municipal attorney may prosecute if written permission to
35 do so is obtained from the State's Attorney.

1 (d) The State's Attorney of the county in which the
2 violation occurs may not grant to the municipal attorney
3 permission to prosecute if the offense charged is a felony
4 under Section 11-501 of this Code.

5 (Source: P.A. 83-341.)